



#400265

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
)
Oscar D. Sandlin et al.)
)
Serial No. 10/656,553)
)
Filed September 6, 2003)
)
LASTING SCENTED PAINT AND)
METHOD FOR MAKING SAME)

AMENDED DECLARATION OF Bill Oltman of 14 December 2006

Submitted as a Declaration under 37 C.F.R. 1.131

1. I herewith state my name is Bill Oltman, one of the named inventors in US Patent Application Serial Number 10/656,553 and a professional painter.
2. In April 2001, I provided painting services for a housing development entitled The Grande Reserve at Geist located at 8019 Glenway Drive, Indianapolis, Indiana 46236. My job was to paint housing units when they became vacant prior to occupancy by new tenants. I was paid a standard amount for each unit depending on the size of the unit.
3. In April 2001, I was requested to paint the walls in Unit 1601 in the housing development. I painted Unit 1601 which is a two bedroom, two bath apartment and was paid my standard charge for the painting services.
4. Despite the cleaning efforts by The Grande Reserve at Geist and despite my painting of the walls in Unit 1601, the unit had a strong cigarette smoke smell.
5. After repeated efforts, The Grande Reserve at Geist was unable to rid the unit of the cigarette smoke smell existing on the walls of the unit.

6. Prior to April 2001, I was experimenting, along with Oscar D. Sandlin with developing a scented paint. In April 2001 and prior to April 31, 2001, we developed a paint by combining paint ingredients with a powder resulting in a paint with a potpourri scent.

7. The method used in April 2001 and prior to April 31, 2001, of making a lasting scented finish paint as claimed in claim 9 of the subject patent application included the steps of: selecting a paint; selecting a suitable solvent; selecting a potpourri scenting agent of characteristics such that it would provide continued scent and odor after the paint was applied to a selected surface and allowed to dry, and, mixing or agitating the paint, solvent and scenting agent until thorough dispersion of all ingredients take place. The resultant combination once allowed to dry on the wall provided a lasting scented paint finish.

8. Attached hereto are photographs, marked as Photographs 1 & 2, of the actual container containing the scenting agent used in the method of making a lasting scented paint mixture having a potpourri scent detailed in the paragraphs 6 and 7 of this Declaration. Photograph 1 shows the front of the container which is Arm & Hammer Carpet & Room Deodorizer having a Country Potpourri scent. At the bottom of the front of the surface shown in Photograph 1 is dried paint resulting from using this method in early April 2001 in painting Unit 1601. Photograph 2 shows the bottom of the container shown in Photograph 1 revealing the bar code having a number of 3320011314 that converts to a date of production of the Deodorizer of 3/3/2001

9. After I painted Unit 1601, I offered to Beverly A. Rahe who worked for The Grand Reserve at Geist to re-paint Unit 1601 for no charge with our new scented potpourri paint to see if I could eliminate the smoke smell in the unit.
10. In early April 2001 and prior to April 31, 2001, I re-painted Unit 1601, for no charge, with the new scented potpourri paint at which time the smell of smoke was eliminated from the unit.
11. Upon successfully eliminating the smell of smoke from Unit 1601 by painting the walls with the new scented paint, developed by the method detailed in paragraph 7, in April 2001, I along with Oscar D. Sandlin were encouraged by the results.
12. After painting Unit 1601 with the potpourri scented paint, we continued to experiment during April 2001 in developing various scents to include in the paint along with increasing the lasting effect of the scent. Likewise, in April 2001 we experimented in developing various textures to the paint.
13. The method used to paint Unit 1601 was to mix 2 ounces of Arm & Hammer carpet deodorizer with 2 ounces of solvent until the carpet deodorizer was liquefied. Next, the mixture was blended with paint for 10 minutes. Next, Unit 1601 was painted using the mixture by spraying the walls.
14. After April 2001 and until after September 2002, I continued to extend my experiment, along with my co-inventor, to perfect the method to increase the durability of the lasting scent of the paint developed by the method claimed in the subject patent application. I along with my co-inventor conducted various experiments on a WEEKLY Basis, both during week-day evenings and on week-ends.

15. Several improvements to the mixture made by the claimed method used to provide paint in painting Unit 1601 were made during the period following the painting of Unit 1601 until at least until the end of 2002.

16. The experiments conducted during the aforementioned period were first directed to allowing painting with a sprayer. It is more economically to paint using a sprayer than a brush. The tip of the sprayer became clogged during painting of Unit 1601. Analyzing the cause of the clogging, I prepared the mixture made by the claimed method and allowed the mixture to sit over night. I then noticed that the components had separated. Next, I drained the solvent from the mixture and noticed that the binder used in the Arm & Hammer carpet deodorizer to deliver the scent was a silica type inert material. The silica material was clogging the sprayer tip and thus, another binder was required. I along with my co-inventor directed our attention to selecting a suitable binder that would not clog a sprayer tip. Experiments were conducted after painting Unit 1601 in selecting a suitable binder.

17. The next series of experiments during the same period were directed to suitably combining a binder with a scent. Many binders and scents were selected; however, the binder and scent would separate or become jelled. Neither alternative was acceptable to produce a mixture that could be used commercially.

18. The next series of experiments during the same period were directed to producing a mixture with a scent that lasted. In many cases, the scent would disappear after a few days once the wall was painted. Eventually, after September 2002, I had a list of binders and scents that could be combined that would not plug the sprayer tip, would not separate nor jell, and would provide a lasting scent.

19. I painted Unit 1601 without charge as an experiment to further the perfection of my invention. I did not receive any commercial gain from painting Unit 1601 with my new paint described herein.

20. It was understood by me, my co-inventor, and the Manager of the Unit that I would have access to the Unit and that the Unit would not be available for rent until the scent was lasting. I was provided a key to Unit 1601 and no one had access to the room except the employees of the owner of the building. No one was granted access to the Unit during the painting of the Unit except as otherwise detailed by the declarations submitted in the subject patent application until the painting was completed.

21. Eventually, Unit 1601 was rented; however, the details of the claimed method were not revealed to prospective renters nor was the fact that the Unit previously had a smoke smell. The prospective renters could not have known that the smoke smell had been eliminated by the method described herein.

22. Even though Unit 1601 was rented during the year following April 2001, the method claimed in the subject invention was maintained as a secret. That is, the steps of the method were not disclosed to anyone other than detailed in the declarations submitted in support of the subject patent application. Anyone who knew of the various steps of the method were requested to not pass on information concerning the steps. Thus, I did not feel it necessary to enter into written secrecy agreements. Further, the nature of the method or the steps of the method could not be determined by being physically in Unit 1601. I nor my co-inventor never commercially benefited from painting Unit 1601 since we were not paid for the experiment of eliminating the smell from the Unit.

23. I along with my co-inventor did not receive any monies or other consideration relating to the claimed method or for painting using a mixture produced by the claimed method until the summer of 2005 whereupon we painted the interior of a garage owned by Janet Adams, 1012 Reserve Way, Indianapolis, Indiana.

24. I have been particularly cautious in maintaining the confidentiality of my experiments with Oscar D. Sandlin in developing a scented paint. Thus, I was particularly careful in not creating any type of paper or documentation detailing my experimentation with Oscar D. Sandlin in developing a scented paint. I was concerned that our invention of the scented paint disclosed in the subject patent application could be taken without our permission and thus in April 2001, when I developed with Oscar D. Sandlin a paint by combining paint ingredients with a powder resulting in a paint with potpourri scent, I did not document nor maintain any records of either the steps or the results incurred during the development.

25. My occupation throughout the year 2001 was professional painter and not as any type of an inventor or an experimenter. Thus, I did not maintain any type of laboratory notes or other documentation regarding my experimentation with Oscar D. Sandlin and the development in April 2001 of the method and scented paint disclosed in our subject patent application. All details and results of our experimentation were retained strictly by our personal memory.

26. I was not aware during the year 2001 of the desirability of documenting the actual conception date and production of the method and paint disclosed in the subject patent application. As a result, I do not have any type of documents showing the actual

conception or reduction to practice of the invention disclosed in our subject patent application.

I, hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of any trademark application or any trademark registration issued thereon.

Dated: DEC 14 2006


Bill Oltman